

REMARKS

Applicant first notes that the Official Action states that claims 25, 73, and 29 do not invoke U.S.C. §112 p.(6). The Official Action states that U.S.C. §112 p.(6) is not invoked because subsequent dependent claims recite sufficient structure. Applicant notes that such dependent claims are not part of the respective independent claims. Furthermore, the independent claims should not be restricted to the structure laid out in the dependent claims.

Claims 25-36 are rejected under 35 U.S.C. §102(b) as being anticipated by United States Patent App. 2003/0028476 to Jenkins et al. (hereinafter "Jenkins").

Claim 25 has been amended to include the limitation of "the first amount of the first article of commerce being placed on hold within the account of the first user for as long as the offer is active." Such a limitation is not taught by Jenkins.

Claim 30 has been amended to include the limitation of "the database further storing an indication of a subscription status of second user." Such a limitation is not taught by Jenkins.

Claim 35 has been amended to include the limitation of "verifying that a first client is subscribed to an exchange system." Such a limitation is not taught by Jenkins.

Claims 73-89 are rejected under 35 U.S.C. §103(a) as being unpatentable over Jenkins in view of United States Patent No. 5,748,731 to Shepherd (hereinafter "Shepherd"). Jenkins describes a system for trading of derivatives. Shepherd teaches electronic trading cards. The Official Action states that it would be obvious to trade the electronic trading cards of Shepherd with the system of Jenkins "in order to provide a means for traders to ensure that a collector is not receiving duplicated electronic trading cards by going through an intermediary clearing house which stores and settles the trades for the users.

First, Shepherd provides a proprietary file format that allows transfer but prevents duplication. [Shepherd, Col. 7, l. 58- Col. 8, l. 3] Various key codes are required to decipher encrypted data of the cards. Accordingly, one wishing to trade the cards of Shepherd would not be worried about invalid copies. Rather, Shepherd already has a method for preventing such forgeries. The method employed by Shepherd is different from the claimed system. Accordingly, the motivation provided by the Official Action is improper. One of ordinary skill in the art would not be led to make the combination put forth by the Official Action.

Second, Shepherd discloses a proprietary transfer mechanism, the file transfer manager. [Shepherd, Col. 7, ll. 58-60]. The trading card can only be taken from the inventory of the owner via the file transfer manager. Accordingly, the file format and copy protection measures employed by Shepherd are incompatible with the trading system of Jenkins. Thus, the proposed combined pieces are incompatible with each other and result in a non-working device. Thus, the proposed combination is improper.

For the reasons discussed above, claims 25-36, 73-89, and 123-165 are believed to be in condition for allowance.

The Examiner has requested that support be identified in the specification for the amendments to the claims and the new claims. First, applicant traverses the Official Action's assertion that a failure to identify such support is grounds for holding a response as not fully responsive. While the cited 37 C.F.R. 1.111 states that such identification "should" be made, it is not identified as a ground for holding a response not fully responsive. Despite this, Applicant provides identification of support for the amendments below. It should be noted that the identification below is merely to show support for the matter, and should not be held to define the terms, limitations, or claims. Applicant notes that the claims as filed form part of the disclosure and may be relied upon for support.

With respect to the amendment to claim 25, as well as new claims 132, 133, 163, and 165 applicant directs attention to claim 20 as originally filed.

With respect to the amendments to claims 30 and 35, as well as new claims 130, 131, 136, 162, and 164, applicant directs attention to lines 5-33 of page 8 of the application.

With respect to new claim 123 applicant directs attention to claim 29 as originally filed.

With respect to new claim 124 applicant directs attention to claim 117 as originally filed.

With respect to new claims 125, 134, and 135 applicant directs attention to claim 120 as originally filed.

With respect to new claims 126 and 137 applicant directs attention to claim 118 as originally filed.

With respect to new claim 127 applicant directs attention to claim 119 as originally filed.

With respect to new claim 128 applicant directs attention to claim 120 as originally filed.

With respect to new claim 129 applicant directs attention to claim 122 as originally filed.

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With respect to new claims 138-161 applicant directs attention to lines 18-22 of page 8 of the specification. Accordingly, the amendments to the claims and the new claims are all supported by the filed disclosure. Thus, no new matter has been entered by this amendment.

If necessary, applicants request that this response be considered a request for an extension of time appropriate for the response to be timely filed. Applicants request that any required fees needed beyond those submitted with this amendment be charged to the account of Baker & Daniels LLP, Deposit Account No. 02-0390.

The Examiner is invited to contact the undersigned at the telephone number provided below should any question or comment arise during reconsideration of this matter.

Respectfully submitted,

/Ryan C. Barker/

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